

46 Am. Jur. 2d Judges § 20

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Judges

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IV. Termination or Suspension of Office; Censure

C. Suspension; Censure

§ 20. Suspension or censure of judge, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11

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[Disciplinary action against judge for engaging in ex parte communication with attorney, party, or witness, 82 A.L.R.4th 567](#)

[Power of court to remove or suspend judge, 53 A.L.R.3d 882](#)

The power to remove a judge may include the power to suspend a judge during the pendency of a removal proceeding.¹ However, some constitutional provisions state that no suit for removal of a judge works a suspension from office but that the trial court may, following a hearing, suspend a judge subject to a review by the proper court.²

In lieu of removal, a state supreme court may, upon a proper showing of abuse or misconduct, order that a judge be suspended³ or censured,⁴ since removal is an extreme sanction which will only be imposed in the event of truly egregious circumstances.⁵

The suspension of a judge for a period of six months without pay was warranted, where the judge engaged in a practice of deliberately postponing the appointment of counsel to indigent defendants in probation violation cases until after the time period for disqualification of the judge had passed, for the stated and overt reason of preventing the public defender from disqualifying the judge, in violation of the code of judicial conduct.⁶

CUMULATIVE SUPPLEMENT

Cases:

Public censure was appropriate sanction for judge's conduct in using n-word during conversation with court staff and in expressing her views about criminal justice, police brutality, race, and racial bias while wearing robe in court staff work areas and from the bench; judge expressed remorse, apologized for her conduct, and agreed to waive her right to a hearing in formal proceedings, to be publicly censured, and to resign her position as a judge. Colo. Code of Judicial Conduct, Rules 1.2, 1.3, 2.3, 2.8. [Matter of Chase, 2021 CO 23, 485 P.3d 65 \(Colo. 2021\)](#).

Public reprimand was appropriate discipline for judge who failed to personally observe the high standards of conduct demanded of the judiciary, acted in a manner that does not promote public confidence in the integrity of the judiciary, and was not patient, dignified, and courteous to others, stemming from incident in which judge, while wearing his robe, confronted noisy people in lobby celebrating another judge's investiture ceremony, approached individual shaking her head, threatened her with contempt, and asked for her name and whether she was employed in the courthouse; court recognized judge's cooperation and otherwise unblemished career. Fla. Code of Jud. Conduct, Canons 1, 2A, 3B(4). [Inquiry Concerning a Judge No. 20-059 re: Miller, 304 So. 3d 1214 \(Fla. 2020\)](#).

Public reprimand of judge was warranted, in judicial disciplinary case, where judge, who loudly ordered a courtroom deputy, in front of the jury, to remove one of defendant's attorneys from a sidebar conference, admitted his conduct and accepted full responsibility for his actions, he had no prior judicial disciplinary history, he voluntarily signed up for stress management counseling, and the discipline was similar to discipline previously imposed for similar conduct. Fla. Code of Jud. Conduct, Canon 1, 2, 3B(1,4,7). [Re Bailey, 267 So. 3d 992 \(Fla. 2019\)](#).

Probate judge, who faced sanctions in judicial discipline action for violations of the Code of Judicial Conduct, could not support his claim that a two-year suspension from practice and the \$5,000 forfeiture were more severe sanctions than sanctions that had been imposed on other judges similarly situated, where records of referrals to the Supreme Judicial Court of claims of professional misconduct by attorneys or judges for over 30 years showed that no individual was subject to as many referrals for professional discipline as judge. [Matter of Nadeau, 2017 ME 191, 170 A.3d 255 \(Me. 2017\)](#).

Suspension from practice of law for two years and forfeiture of \$5,000 was appropriate sanction for conduct of probate judge, which included issuing directive that attorneys not receive court appointments based on personal ill-will, ordering attorney to destroy lawfully obtained public record, and urging litigants to contact county commissioners to support increased funding for court days, which would have increased his salary, in violation of canons of judicial conduct; judge had significant prior disciplinary history, judge's actions were often carried out in intemperate and vindictive fashion, judge had not fully acknowledged intemperate nature of his decisions, and prior corrective efforts were not effective in dissuading judge from engaging in such conduct. [Matter of Nadeau, 2017 ME 121, 168 A.3d 746 \(Me. 2017\)](#).

Public censure, rather than 30-day suspension without pay, was warranted as a sanction for circuit court judge who committed misconduct by failing to conduct herself in a respectful and courteous manner toward children who refused to participate in parenting time with their father in highly contentious divorce and custody case; judge's good faith legal errors in holding the children in contempt did not constitute judicial misconduct, judge's inappropriate conduct was isolated, there was no evidence of an unequal application of justice, and judge's frustration with children's deliberately defiant behavior over a lengthy period of time was understandable. [In re Goreyca, 500 Mich. 588, 902 N.W.2d 828 \(2017\)](#).

Judicial Commissioner's recommendation that district court judge be censured was appropriate sanction for judge's violations of Canons of Code of Judicial Conduct requiring judge to uphold integrity of judiciary, to respect and comply with law and conduct herself in manner that promoted public confidence in integrity and impartiality of judiciary, to be patient, dignified and courteous to litigants, witnesses, and lawyers, and to accord every person legally interested in proceeding full right to be heard

according to law, in view of judge's stipulation to Commission's findings and conclusions, and her candor and cooperation with disciplinary proceedings. [N.C. Code of Jud. Conduct, Canon 1, 2\(A\), 3\(A\)\(3\), \(4\). In re Foster, 832 S.E.2d 684 \(N.C. 2019\).](#)

Public reprimand of deputy commissioner of Industrial Commission was warranted as sanction for commissioner's vehicle collision while under the influence of an impairing substance, which resulted in violations of canons requiring a judge to uphold the integrity and independence of the judiciary and to avoid impropriety in the judge's activities and statute prohibiting conduct prejudicial to the administration of justice that brought the judicial office into disrepute. [N.C. Gen. Stat. Ann. § 7A-376; N.C. Code of Jud. Conduct, Canons 1, 2. In re Shipley, 811 S.E.2d 556 \(N.C. 2018\).](#)

Six month suspension from the practice of law, stayed on certain conditions, was warranted, in judicial disciplinary case, where judge, who had no prior disciplinary history, interfered with a case that had been assigned to another judge involving the incarcerated boyfriend of the daughter of judge's friends, engaged in ex parte communications with boyfriend, and orchestrated boyfriend's release on a recognizance bond two days before his scheduled arraignment, in violation of the judicial conduct rules, and judge exhibited an attitude of denial. [Ohio Code of Jud. Conduct, Rules 1.2, 1.3, 2.9\(A\); Ohio Gov. Bar R. 5\(13\)\(B, C\). Disciplinary Counsel v. Goulding, 162 Ohio St. 3d 482, 2020-Ohio-4588, 165 N.E.3d 1244 \(2020\).](#)

Public reprimand of judge was warranted, in disciplinary proceeding where judge, who later pled guilty to one count of operating a vehicle while under the influence of alcohol (OVI), informed police officers during traffic stop that he was a judge, said he was not asking for favors, but then asked if there was anything he could do to avoid arrest, and judge did not have a history of prior discipline, he made full and free disclosure to the Board of Professional Conduct and exhibited a cooperative attitude toward the disciplinary proceedings, submitted evidence of his good character and reputation, and had other sanctions imposed for his conduct. [Ohio Code of Jud. Conduct, Rule 1.1, 1.3; Ohio Gov. Bar R. V\(13\)\(C\)\(1\), \(4-6\). Disciplinary Counsel v. Gonzalez, 160 Ohio St. 3d 229, 2020-Ohio-3259, 155 N.E.3d 864 \(2020\).](#)

Public reprimand was appropriate sanction for misconduct of judge, who pled guilty to operation of motor vehicle while under the influence of alcohol (OVI), and, during arrest for that crime, stated that she was judge on court of common pleas, in violation of judicial conduct rules; no aggravating factors were present, and mitigating factors included lack of prior disciplinary record, cooperation in disciplinary process, imposition of other penalties and sanctions for her conduct, evidence of good character and reputation, lack of dishonest or selfish motive, and timely, good-faith effort to rectify misconduct. [Ohio Gov. Bar R. V\(13\)\(B, C\). Disciplinary Counsel v. Doherty, 159 Ohio St. 3d 364, 2020-Ohio-1422, 150 N.E.3d 949 \(2020\).](#)

Supreme Court would defer final judicial discipline regarding pending felony charge against district judge arising from her alleged neglect of her state tax obligations, and would instead place judge on probation with conditions, until felony charge was resolved. [Matter of Disciplinary Proceedings Concerning Coleman, 2019 OK 77, 454 P.3d 1280 \(Okla. 2019\).](#)

Immediate and indefinite suspension, together with public reprimand and prohibition on ever holding judicial office in the state, was appropriate sanction for assistant judge's violation of multiple judicial canons in connection with his improper conduct regarding assets of estate of his uncle's wife; assistant judge's violations had continued throughout his tenure as assistant judge, judge refused to take responsibility for his actions, and judge had provided demonstrably false testimony on more than one occasion at disciplinary hearing. [Vt. Code Jud. Conduct, Canons 1, 2A, 4A\(2\), 5B\(2\). In re Kane, 2017 VT 48, 169 A.3d 180 \(Vt. 2017\).](#)

[END OF SUPPLEMENT]

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Footnotes

¹ [In re Toler, 216 W. Va. 743, 613 S.E.2d 604 \(2005\).](#)

As to removal of judges, generally, see §§ 16 to 19.

2 [Stanley v. Jones](#), 197 La. 627, 2 So. 2d 45 (1941).

3 [In re Hathaway](#), 464 Mich. 672, 630 N.W.2d 850 (2001).

4 [In re McBryde](#), 117 F.3d 208 (5th Cir. 1997); [In re Wimbish](#), 733 So. 2d 1183 (La. 1999).

A public reprimand is the most severe sanction the court can impose when a judge no longer holds judicial office. [In re Evans](#), 376 S.C. 540, 658 S.E.2d 78 (2008).

Where the conduct results in the creation of an appearance of impropriety, but where no actual impropriety is demonstrated, and the conduct is essentially negligent, the baseline sanction will, generally, be either private reprimand or public censure under the ABA Standards, depending on the amount of harm caused and subject to increase or decrease dependent upon the presence of aggravating or mitigating factors. [In re Inquiry Concerning a Judge](#), 788 P.2d 716 (Alaska 1990).

5 [In re Kaiser](#), 111 Wash. 2d 275, 759 P.2d 392 (1988).

6 [In re Mennemeyer](#), 505 S.W.3d 282 (Mo. 2017).

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